TELLS THE FACTS AND NAMES THE NAMES

CounterPunch

NOV. 1-15, 2010 ALEXANDER COCKBURN AND JEFFREY ST. CLAIR VOL. 17, NO. 19

"Legal" Pot Comes Close in California

Here is What Was Wrong with Prop 19

By Fred Gardner

As Humboldt goes (53.3 per cent No), so goes California. On Proposition 19, the "Regulate, Control, and Tax Cannabis Act of 2010," the "yes" vote was about 46 per cent, countywide and statewide. Dale Gieringer of California NORML had been saying that "anything over 45 per cent would not be a defeat." George Soros concluded an Op-Ed in the *Wall St. Journal*, "Proposition 19 already is a winner no matter what happens on Election Day. The mere fact of its being on the ballot has elevated and legitimized public discourse about marijuana and marijuana policy in ways I could not have imagined a year ago."

The Prop 19 campaign reportedly cost close to $4 million. Soros made a last-minute $1 million contribution, which was used to buy time on the final weekend for a TV ad featuring Joe McNamara, once the chief of police in San Jose. Richard Lee, the prime mover politically and financially, put up almost $2 million. "It was his idea, he bankrolled it, his team wrote it" is how Gieringer describes Rich Lee's role.

Lee, 47, grew up in Houston, Texas, in a family of Goldwater Republicans whose outlook he shared and still shares. In his early 20s, he rode a Harley and flew a plane. In 1990, on tour with Aerosmith as a lighting technician, he fell and suffered a spinal injury that left him paralyzed from the waist down. In 1992, Lee started a hemp store in Houston called "Legal Marijuana." He educated customers – and his supportive family – about

GARDNER CONT. ON PAGE 3, COL. 2

Goodbye Russ Feingold, Hello Rand Paul

The Best Senator Out-of-State Millionaires Can Buy

By Pam Martens

It was sometime in the wee hours of election eve, after the reality set in that voters in Wisconsin had fired Russ Feingold from the U.S. Senate while the voters of Kentucky had hired Rand Paul, that I began to seriously question America's future.

Russ Feingold never was my senator, but he was someone I deeply admired. When myself and others fought to end the covert repeal of the 1964 Civil Rights Act by big corporations, a process which buried in the fine print of employment contracts the corporation's right to settle all worker disputes (including civil rights, fraud and whistleblower claims) in a private justice system called mandatory arbitration, it was Russ Feingold who introduced legislation in the Senate to abolish this practice. Of course, corporate interests made sure this legislation died a quiet death in each legislative session since 1994.

Russ Feingold voted against the repeal of the Glass-Steagall Act, the depression era legislation which, once repealed, allowed the banks to become giant casinos that looted the country, fleeced the populace, and left wealth concentrated in so few hands that government stimulus is all that's keeping the country afloat. Senator Feingold also voted against the tepid financial reform legislation on the basis of its many weaknesses, and desperately tried to curtail the growing threat of corporate money and power in Washington through campaign finance reform. Senator Feingold has now gone, along with the crumbling hope that if you do right by the people, you can make a difference in Washington.

The ferocious winds that swept away the good senator from Wisconsin on November 2 tossed us the new corporate caricature we can expect henceforth: Tea Party candidate Rand Paul, who will represent Kentucky in the Senate. In contrast to Senator Feingold who thundered against corporate excess, Dr. Paul (a Bowling Green ophthalmologist) has never seen a government regulation he doesn't want to gut. His reaction to the BP oil spill was "accidents happen." Dr. Paul is also a perpetual waffler on civil rights versus corporate interests. In a May 30, 2002, letter to the Bowling Green *Daily News*, Paul said: "A free society will abide unofficial, private discrimination even when that means allowing hate-filled groups to exclude people based on the color of their skin. It is unenlightened and ill-informed to promote discrimination against individuals based on the color of their skin. It is likewise unwise to forget the distinction between public (taxpayer-financed) and private entities."

Dr. Paul berated President Obama on the issue of the BP oil spill, stating, "What I don't like from the president's administration is this sort of, 'I'll put my boot heel on the throat of BP.'" He had a milder initial reaction to his regional campaign coordinator, Tim Profitt, stomping his oversized heel on the head of a liberal woman, thrown to the ground and held there by Paul campaign volunteers. The woman attacked by the Paul thugs was Lauren Valle, a MoveOn.org activist and part of the newly created satirical entity, "RepubliCorp: Buying Democracy One Race At a Time." Ms. Valle was attempting to present Dr. Paul with an employee of the month award from RepubliCorp. Rather than properly describing the incident as a physical assault, Paul told

MARTENS CONTINUED ON PAGE 2

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

MARTENS CONT. FROM PAGE 1, COL 3

Fox News it had been a "crowd control problem." According to numerous media reports, Dr. Paul will not be returning Mr. Profitt's $1,900 campaign donation. As we'll explain later in this article, Dr. Paul needed every dollar he could muster from Kentucky residents and, while Mr. Profitt may not proffer the best image of the state, he does, at least, reside there.

Is Dr. Paul the pawn of corporate interests or a populist with a genuine mandate from the people? In an interview with Eric Burnette that appeared in the September 2010 *Louisville Magazine*, Dr. Paul said his favorite president was Glover Cleveland because he "faced down the special interests that were corrupting government."

An in-depth analysis of the donor records for the Rand Paul campaign at the Federal Elections Commission reveals that the vast majority of Dr. Paul's backers was a motley mix of oil interests, billionaires and millionaires who resided outside the state of Kentucky. Try as I might, in terms of financial support I could find no populist mandate for Dr. Paul. According to the Kentucky secretary of state's office, there are 2.9 million Kentuckians registered to vote. As of October 13, 2010, according to the Federal Election Commission's website, Dr. Paul had received a measly 2,813 contributions from individuals, or less than one per cent of registered voters in Kentucky. Of those contributions, the vast majority of the money raised came from out of state.

Then there was the matter of PACs and non-candidate committees, which contributed over $400,000 to Dr. Paul's campaign. A small sampling of PACs contributing to Paul includes Exxon, Chevron, Marathon Oil, Devon Energy, Anadarko Petroleum, American Bankers Association, Halliburton, FedEx, and Koch Industries – the latter being majority-owned by Charles and David Koch, each worth $21.5 billion, and the funders of corporate front groups masquerading as populist uprisings.

"I finally asked Mr. Rufer how the country would build the roads and the schools and take care of the disabled and destitute if there were no federal taxes. He said private charity would take care of it all."

Another note of interest is that, in the last few days before the election, big money poured in from corporate PACs and corporate law firms registered as lobbyists. Koch family members – David, Julia and Anna Koch – each contributed $2,400 just under the wire.

The out of state billionaires and millionaires backing this man of the people include the following: California millionaires Scott and Cyan Banister, who live in Half Moon Bay, California, each gave $4,800 to Paul, half to his primary and half to the general election. Mr. Banister co-founded IronPort, an email appliance provider that was later acquired by Cisco for $830 million.

Mark Hart and his wife, Shannon Hart, millionaires from Fort Worth, Texas, also gave the maximum $4,800 each to Paul, for a total of $9,600. Mr. Hart runs the ultrasecretive hedge fund, Corriente Advisors, and he racked up hundreds of millions of dollars in profits for his secret investors by betting on the misery of others: namely, that poor people would lose their homes and that the bonds of countries like Greece, buried under debt that Goldman Sachs helped to hide, would suffer loses. Mr. Hart profits from bets on bad outcomes for average citizens, and it's noteworthy he's betting on Rand Paul.

Another hedge fund manager, Peter Thiel of San Francisco, gave the $4,800 max. Mr. Thiel's net worth is estimated by Forbes to be $1.2 billion; he manages the Clarium Fund. Famed money manager David Tice of Prudent Bear Fund who lives in Dallas, Texas, gave $2,400.

Richard (Dick) Wright of Akron, Ohio, who runs Wright Tool Company founded by his father in 1927, also gave the max of $4,800. The Huffines clan of Dallas, big time real estate developers, gave generously as well – with Donald, Mary, Holly, and Phillip chipping in $2,400 each. Bert Fields, an oil and gas producer in Dallas, gave the max of $4,800. Peter Schiff of Darien, Connecticut, who runs EuroPacific Capital, a broker/dealer and mutual fund complex, kicked in $2,400. Mr. Schiff, a frequent guest on CNBC, was one of Charles Koch's elite guests at the secret confab in June in Aspen, where libertarians hatched their strategies for this election.

Another individual on Charles Koch's Aspen guest list was Chris Rufer, who hails from Woodland, California. Mr. Rufer contributed $4,800 to Dr. Paul, with his wife, Melodie, kicking in another $2,400. Mr. Rufer is a self-made man, founding The Morning Star Company as a one-truck operation in 1970. The company now supplies approximately 40 per cent of U.S. ingredient tomato paste and diced tomatoes, with annual sales of about $350 million.

Having seen the names of countless residents of California and Texas on the Federal Election Commission's scanned documents of contributions to Dr. Paul, I rang up Mr. Rufer to find out how someone on the other side of the country came to be financially involved in electing a senator from Kentucky. Mr. Rufer said he could not remember how he got involved, but he is a libertarian and doesn't think the government should be able to steal from people by force (meaning taxes). I asked Mr. Rufer if he felt it was stealing the vote from the residents of Kentucky for out-of-staters to be throwing their financial might behind a candidate. Mr. Rufer said it was his right

CounterPunch

EDITORS
ALEXANDER COCKBURN
JEFFREY ST. CLAIR

ASSISTANT EDITOR
ALEVTINA REA

BUSINESS
BECKY GRANT
DEVA WHEELER

DESIGN
TIFFANY WARDLE

COUNSELOR
BEN SONNENBERG
1937-2010

CounterPunch
P.O. Box 228
Petrolia, CA 95558
1-800-840-3683
counterpunch@counterpunch.org
www.counterpunch.org
All rights reserved.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

as long as the government continues to use force to take from people. I asked Mr. Rufer how the average person could hope to compete with millionaires who were able to give up to a cap of $2,400 to a candidate for the primary; another $2,400 to the candidate for the general election; and their spouse could do the same for a combined $9,600 per couple. Mr. Rufer said everyone in the country should be able to do that if they worked hard. Since 2001, Mr. Rufer has contributed $125,700 to libertarian committees or right-wing candidates.

Mr. Rufer and I went around in circles for a goodly period of time, when I finally asked Mr. Rufer how the country would build the roads and the schools and take care of the disabled and destitute if there were no federal taxes. He said private charity would take care of it all. I told Mr. Rufer that history says otherwise; here, in New England, before the federal income tax, women and men were sold at public auction like cattle, when their money ran out and there was no family member to step forward and take them in.

Mr. Rufer is not an isolated example of libertarian thought. Hard-core libertarians believe the government has no right to regulate business; it has no right to tax for social welfare needs; all services like schools, nursing homes, prisons, courts, roads should be privatized. Is this really a seriously held philosophy, or the whim of spoiled children in adult bodies who likely clubbed their playmates in kindergarten rather than share the Playdough? Is this just a concocted political theory to disguise ultramaterialism and selfishness?

I asked Mr. Rufer how much wealth he felt he needed? He demanded for me to tell him if I felt the government had the right to redistribute wealth. I countered with the fact that 43 million people were living below the poverty level in this country, that 1 per cent of the population was controlling too much of the wealth for the country to get back on its feet. The conversation ended amicably with me thanking Mr. Rufer for building a business that created much-needed jobs.

The deeply disheartening part of politics today is that there has never been a stronger, evidentiary basis for strident government regulation of corporate excesses. Instead, the libertarians have combined with the nouveau riche and old-money billionaires, the moneyed interests have combined with the corporations, and the whole pack has combined with the Republican Party. Now, this well-heeled rat pack is pumping hundreds of millions of dollars into front groups, attack ads and public relations campaigns to win the hearts and minds of citizens and sell the numbskull idea that personal liberty and the Constitution are somehow hinged to freedom for corporations to screw us interminably without government interference. **CP**

Pam Martens worked on Wall Street for 21 years; she has no security position, long or short, in any company mentioned in this article. She writes on public interest issues from New Hampshire. She can be reached at pamk741@aol.com.

The deeply disheartening part of politics today is that there has never been a stronger, evidentiary basis for strident government regulation of corporate excesses.

GARDNER CONT. FROM PAGE 1, COL. 1

the amazing versatility and suppressed history of the cannabis plant. As recounted by John Hoeffel in a *Los Angeles Times* profile, Lee "also started to talk about pot's medical benefits, saying it quieted the spasms in his legs.

By passing the Compassionate Use Act of 1996 – Proposition 215 – California voters had legalized marijuana for medical use, which greatly reduced the risk of growing and selling the herb in jurisdictions that allowed the new law to be implemented. (Drug Warriors have successfully fought implementation in most cities and counties.) Rich Lee moved to Oakland in 1997, part of a wave of activists who wanted to make a living in the fledgling cannabis industry and advance the cause of legalization. He organized a marijuana grow in a warehouse and then opened a cannabis-friendly coffee shop called the Bulldog, in honor of an Amsterdam coffee shop. Nearby was the Oakland Cannabis Buyers Co-op (founded by Jeff Jones, formerly of South Dakota), and a garden-supply store (run by Andrew Glazier, formerly of Florida). The neighborhood was soon dubbed "Oaksterdam," and Lee went on to start the *Oaksterdam News*, the Oaksterdam Gift Shop, and coffee shop Blue Sky, one of four dispensaries granted a license by the city of Oakland in 2004.

Also in 2004 Lee backed a local initiative, Measure Z, that instructed Oakland police to make marijuana busts a low priority. It passed by a 65-35 margin. In 2007, he started a trade school, Oaksterdam University, that has since trained thousands seeking employment in the cannabis industry. Oaksterdam U. has a student union building (!) with a backroom, "Jack's Place," that Lee describes as "a Measure-Z coffee shop," where adults are served without having to show proof that a doctor authorized their cannabis use.

Prop 19, by leaving the regulation of large-scale production and distribution up to California cities and counties, was designed to allow cannabis sales at coffee shops and other retail outlets in tolerant jurisdictions such as Oakland. In Lee's

Subscription Information

Subscription information can be found at www.counterpunch.org or call toll-free inside the U.S. 1-800-840-3683

Published twice monthly except July and August, 22 issues a year.

1 - year hardcopy edition $45
2 - year hardcopy edition $80
1 - year email edition $35
2 - year email edition $65
1 - year email & hardcopy edition $50
1 - year institutions/supporters $100
1 - year student/low income $35

Renew by telephone, mail or on our website. For mailed orders please include name, address and email address with payment, or call 1-800-840-3683 or 1-707-629 3683. Add $17.50 per year for subscriptions mailed outside the U.S.A.

Make checks or money orders payable to:
CounterPunch
Business Office
PO Box 228, Petrolia, CA 95558

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

home state of Texas, alcohol sales are banned in "dry" counties and allowed in "wet" counties; he figured a similar approach could work in California, and that the market would reward the pro-cannabis areas. The initiative also would have allowed Californians over 21 to cultivate a 25-square-foot plot for "personal consumption."

The No-on-19 campaign consisted mainly of well-publicized statements of disapproval by politicians, law-enforcement lobbyists, and the Chamber of Commerce. A contribution of $10,000 by a beer distributors' group backfired, giving the "Yes-on-19" forces a chance to highlight the alcohol industry's economic interest in marijuana prohibition. The Chico-based makers of Sierra Nevada, the best beer brewed in America, quit the distributors' group in protest.

The "No" camp's heaviest hitters were Sen. Dianne Feinstein and the federal drug czar, Gil Kerlikowske, and his predecessors, going back to Bill "Don't Bet on it" Bennett. The former drug czars issued serial pronouncements reminding California voters that federal law should and would prevail, and calling on Attorney General Eric Holder to state as much. Two weeks before the election, Holder warned that if Prop 19 passed, the feds would "vigorously enforce" federal law to block implementation. Willie Brown, the former mayor who writes a snappy column in the *San Francisco Chronicle*, thinks Holder's threat turned the tide against 19, making it seem to some voters like a futile and costly gesture of defiance.

Prop 19 probably would have passed if it had the wholehearted support of people in the movement/industry. It didn't. A cynic looking at the 53.3 per cent "no" vote in Humboldt County might say that people who are making a living, legit or not, under the status quo don't want to risk a further fall in the wholesale per-pound price. This correspondent is not so cynical. Many people objected to certain punitive sections of Prop 19. "Every anti-cannabis law on the books today will remain unchanged if Prop 19 passes," attorney Bill Panzer explained on the eve of the vote, "with a single exception: a new offense is added, Health & Safety Code §11361(c), which provides that a person 21 or older who gives less than an ounce of cannabis to a person 18-21 (as, for example, a 21-year-old handing a joint to his 20-year-old girlfriend) is guilty of a misdemeanor and subject to six months in jail and a $1,000 fine. Under current law, the offense would call for a $100 maximum fine and no jail."

Another section of Prop 19 prohibited "smoking cannabis in any space while minors are present." How ambiguous can you get? What if the minor is in the next room? The floor above? An upstairs apartment? More significantly, what parent who smokes pot could live by such a regulation?

A few days before the election I called on Doug Linney, whose Oakland-based consulting firm, The Next Generation, handled the Prop 19 campaign, to ask why the punitive measures were included. He said the decision had been made by three men – himself, Richard Lee, and attorney Jim Wheaton, an elections specialist who wrote the measure – in "our collective wisdom of what would pass."

"Every anti-cannabis law on the books today will remain unchanged if Prop 19 passes," attorney Bill Panzer explained on the eve of the vote, "with a single exception: a new offense is added."

I quoted something I'd heard about the campaign hoping to "appease the soccer moms." Linney, who has the thin frame of a runner, waved his hand dismissively and repeated, "We put those in there to make sure this could pass. Our sense was if you had the legal age for marijuana lower than the age for alcohol, it couldn't pass. That was certainly my position." As things turned out, Linney added, "the big issue that the other side has been whacking us over the head with is jobs [meaning the specter of stoned employees] and drunk driving."

The expertise for which campaign consultants get paid involves anticipating thrusts by the opposition and parrying them. And so, punishments for providing cannabis to minors and smoking in the presence of minors were put into Prop 19 as pre-emptive strikes against expected accusations. One problem with this approach is that you wind up making the accusations yourself, implicitly. Why mustn't kids see parents smoking? Because marijuana smoking is really very bad and very dangerous and most of all we've got to hide it from the kids. Why can't you pass a joint to a 20-year-old? Because it must be really bad for them. As Martin Lee (no relation to Rich) puts it, "When you play *to* the fear element, you play *up* the fear element."

George Soros – or whoever drafted his Op-Ed – wasn't too concerned about the ban on providing cannabis to minors or smoking when they're present. He wrote that Prop 19's "deficiencies can be corrected on the basis of experience." This is a facile rationalization that, with respect to Prop 19, may not have been true. According to Bill Panzer, Prop 19 would have violated sections of the California Constitution stating that city charters are "subject to general laws" and that "a local or special statute is invalid in any case if a general statute can be made applicable." Panzer says, "They wrote a law that would have been struck down if it had passed (at least the part about allowing the cities and counties to opt out of state law). Why can't cities and counties opt out of state law and legalize commercial recreational production and sales right now? What prevents them? The state constitution."

On Election Day, ten California cities voted to tax marijuana sold at dispensaries and/or retail outlets that would have come into existence had Prop 19 passed. Santa Barbara and Morro Bay voted not to ban dispensaries. The medical cannabis industry is not going away, and some insolvent governments at the city, county and state levels are going to accommodate it in exchange for tax revenues. Berkeley voters approved six large-scale grow-ops to supply dispensaries. The day after the election, the Los Angeles City Council discussed a plan to tax dispensaries $50 per $1,000 in sales. Oakland already collects such a tax, and has authorized four large-scale grow-ops.

Richard Lee's businesses reportedly gross $7 million a year, and he stands to make more if Oakland grants him one of the grow permits. He is an ardent capitalist and regards the cannabis plant as a commodity to be produced, packaged and sold. He told Hoeffel of the *LA Times* that he launched Oaksterdam University while "trying to figure out the best way to promote the idea of a cannabis industry

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

– instead of all these nonprofit cooperatives, a bunch of hippies, peace and love, sharing their bud together, like a Coca-Cola commercial – you know, 'teach the world to sing'. No, this is like Budweiser and Jack Daniel's. It's a business."

Oakland's Request for Proposals is supposed to go out to applicants next month. It will take many more months for city staff to review and evaluate the hundreds of applications that are expected. The fortunate four won't be known till spring. Of utmost importance to the evaluators will be each project's capitalization.

Capitalization will also be a factor in mounting a legalization campaign in 2012. A professional signature drive costing close to $1 million is a prerequisite to getting an initiative on the ballot. Perhaps there will be several initiatives with enough backing to make it. Lee has indicated an intention to try again. He says he'll be analyzing exit polls to see which arguments swayed voters for or against Prop 19. (It sounds like he remains under the influence of campaign professionals.)

There are numerous, obvious reasons why enlightened capitalists are willing to legalize marijuana. Ending prohibition will bring in tax revenues and reduce law enforcement costs. It might help maintain domestic tranquility in an economic depression that has no end in sight. People are angry; pot makes them mellow. Legalization can be held up as proof that "our democracy works" – a myth that will need constant burnishing now that the U.S. Supreme Court has legalized unlimited, concealed corporate influence in elections.

Marijuana legalization is the perfect cause – the perfect assuager – for libertarians whose consciences whisper that the rich/poor system is inherently cruel. Opposing the drug war enables them to feel righteous, humane and principled – consistent in their commitment to "freedom" in both the personal and economic realms. Legalizers like Soros are showing a truer faith in capitalism than drug warriors like Bill Bennett – they don't think the system requires law enforcement armed to the teeth and encircling and penetrating every ghetto. **CP**

Fred Gardner edits *O'Shaughnessy's*, the journal of cannabis in clinical practice. He can be reached at: fred@plebesite.com

The Rise and Fall of Steven Emerson, "Terror Expert"

By John F. Sugg

Steven Emerson, a self-styled terrorism expert, is a guy who has had a profound and corrosive impact on the national dialogue about the Middle East for two decades. His brand of smear jobs has targeted a wide range of individuals and groups across the nation – more with the intent of silencing voices than anything else.

Most recently, Emerson rolled into Nashville, where he jostled for the limelight on the hate-Muslims soapbox with loopy religious fanatics and just plain old-fashioned Southern bigots. Fortunately, that city has a daily newspaper, the *Tennessean*, which unlike most of America's pathetic press still fearlessly digs out the truth. *Tennessean* religion writer Bob Smietana has provided rich insight into the financing of Emerson's enterprises, as well as other get-rich-by-

Emerson waged a decade-long witch-hunt against Sami Al-Arian as being a terrorist mastermind.

spreading-fear terrorism "experts." The *Tennessean* headlined Smietana's devastating October 24 story, "Anti-Muslim crusaders make millions spreading fear."

My encounters with Emerson's vitriol occurred in another city, Tampa, Florida. Despite a decade in which he propelled a journalistic jihad against the city's Muslims, people in Tampa know far less about Emerson that Smietana's single article told Nashville residents.

Why that paucity of knowledge in Tampa about Emerson? The answer lies in a horrible miscarriage of journalism committed over many years by the *Tampa Tribune*, a series of atrocities the *Tribune* could easily correct by just providing a dash of fair and accurate reporting, something history indicates the newspaper won't do. Nashville should be grateful that it has a newspaper, the *Tennessean*, which can do a proper job.

In tandem with his vassal reporter at the *Tampa Tribune*, Michael Fechter, Emerson waged a decade-long witch-hunt against a professor at the University of South Florida, Sami Al-Arian, accused by Emerson and Fechter of being a terrorist mastermind. Emerson and Fechter were backed by a shadowy network of former federal agents and foreign spooks, notably a disinformation specialist from Israel's ultraright Likud party named Yigal Carmon and a controversial ex-FBI official named Oliver "Buck" Revell – and a lot of money whose origins have never been revealed.

However, where their information came from was clear. As the Israeli newspaper *Ha'aretz* explained before Al-Arian's 2005 federal trial, "Israel owns much of the copyright for the case; a well-informed source termed the prosecution an 'American-Israeli coproduction.' The Americans are running the show, but behind the scenes it was the Israelis who for years collected material (and) transmitted information..." How did they transmit information? In part, via "secret evidence" slipped to our federales – evidence and accusers Al-Arian wasn't allowed to confront (who needs that nasty old Sixth Amendment?). But reporters were also conduits for scurrilous "intelligence" claims. Fechter himself wrote that "former and current senior Israeli intelligence officials" loaded his stories with information. Those allegations, many ludicrous on their face, were rejected by a federal jury, despite a highly prejudiced judge and rulings that, if they had been issued against Martin Luther King Jr., would have prevented him from mentioning Jim Crow in his defense.

Over the years, while a *Weekly Planet* and *Creative Loafing* editor, I had a great deal of fun exposing Emerson, and the prevarications by Fechter and the federal government. I tried to put into context what the anti-Muslim crusaders were up to. I joined a select cadre of journalists that had tangled with Emerson – including the investigative reporters Seymour Hersh, Robert I. Friedman and Robert Parry.

Emerson filed two bogus lawsuits against me, the *Weekly Planet*/*Creative Loafing*, and an AP reporter who had told me about questions he had entertained over the provenance of a docu-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ment Emerson gave the news service. We obtained a court order that would have forced Emerson to produce real proof of his allegations. He knew we were digging into who he really was and who paid his bills – so, he ran away from the fight he started.

It's noteworthy that a number of analysts had observations similar to mine. New York University scholar Zachary Lockman, as quoted on Right Web, wrote in 2005: "[Emerson's] main focus during the 1990s was to sound the alarm about the threat Muslim terrorists posed to the United States. By the end of that decade Emerson was describing himself as a 'terrorist expert and investigator' and 'Executive Director, Terrorism Newswire, Inc.' Along the way, critics charged, Emerson had sounded many false alarms, made numerous errors of fact, bandied accusations about rather freely, and ceased to be regarded as credible by much of the mainstream media.

The *Tribune* still gives Emerson ink – never questioning his claims and guilt-by-association-and-innuendo tactics, and never vetting his background, associations, financing and motives.

Some insight into Emerson's millions has now been provided by the *Tennessean*. Emerson's for-profit company – Washington-based SAE Productions – collected $3,390,000 in 2008 for researching alleged ties between American Muslims and overseas terrorism. The payment came from the Investigative Project on Terrorism Foundation, a nonprofit charity Emerson also founded, which solicits money by telling donors they're in imminent danger from Muslims. Quoting Ken Berger, president of Charity Navigator, a nonprofit watchdog group, the Nashville paper reported: "Basically, you have a nonprofit acting as a front organization, and all that money going to a for-profit. It's wrong. This is off the charts."

That little bit of information on Emerson, contained in one report, is far more than the *Tribune* told you about Emerson over a decade – despite Emerson using the *Tribune* to provoke a legal firestorm that is still ongoing. MSNBC's Keith Olbermann, citing the *Tennessean*'s reports, on Oct. 26 awarded Emerson his nightly "Worst Person in the World" citation. Olbermann expressed regret that the network had previously used Emerson as a chattering head on terrorism topics.

No amount of hyperbole was considered excessive by the *Tribune* or Emerson. Fechter, for example, darkly hinted that the FBI found documents about MacDill Air Force Base among Al-Arian's papers, insinuating some dastardly design. Nope. Al-Arian had twice been invited to speak to large groups of military and intelligence officers, and the sinister documents were just the handout materials. Fechter, following the lead of his guru, Emerson, also tried to blame the Oklahoma City bombing on Arabs, an egregiously false story the *Tribune* has never seen fit to correct. Emerson, meanwhile, said in February 1996 that Palestinian advocates at University of Southern Florida were involved in the 1993 World Trade Center bombing. Emerson promised proof "in the near term." The proof never came, and the Justice Department said it had no records supporting the allegation. You think the *Tribune* might have called Emerson on that one? You think wrong.

The former head of the criminal division of the U.S. Attorney's Office in Tampa, Robert O'Neill, twice concluded during the 1990s there was no evidence to prosecute Al-Arian, according to my multiple sources in the Justice Department. I don't like quoting anonymous sources, so I'll be clear: O'Neill, now the U.S. attorney for Florida's Middle District, himself told me he had looked at the evidence and found no reason to prosecute. In 1998, the then FBI counterterrorism chief Bob Blitzer also told me "no federal laws were broken" by the Tampa Muslims.

Yet, after 9/11, propelled by hate-Muslim diatribes from Bill O'Reilly (who had been funneled highly slanted information by Fechter) and the fear by Jeb Bush that the USF would conclude a settlement with Al-Arian that would prove embarrassing to the Bushite regimes in Washington and Tallahassee, the federal government indicted Al-Arian. The trial concluded with the government failing to win a single guilty verdict against Al-Arian or his co-defendants, an immense disaster for the Bush Justice Department.

Al-Arian later plea-bargained in order to preclude another trial on counts on which the jury didn't reach a verdict – although notably no more than two jurors felt he was guilty on even those "hung" counts. Al-Arian's plea bargain stipulated that he had had no involvement in terrorist activities. Rather, he had provided some minor support to people who might have become terrorists, although it's clear from the trial that any such activities by Al-Arian occurred when they were legal. The plea agreement supposedly ended all business between Al-Arian and the federal government. However, due to legal chicanery by a rogue federal prosecutor in Virginia, Gordon Kromberg – who has been called a doppelganger of Emerson – Al-Arian remains entangled in federal courts and under house arrest.

According to my federal sources, the Al-Arian case cost our government at least $50 million, and, no, the *Trib* and Emerson didn't offer to pay part of bill (you and I had that honor). And, with so many FBI agents chasing a guy whose "guilt" was mostly in exercising his First Amendment rights, the FBI missed another fellow flitting around Florida, a real terrorist with blood on his mind, Mohammed Atta.

The final chapters in the *Trib*'s pogroms against Muslims had a sadly humorous angle. Fechter, who had long been a tool of Emerson's, finally left the *Tribune*, where he had been presented as an objective reporter covering Emerson and al-Arian, and ... went to work for Emerson. He also dumped his wife and children and shacked up with Cherie Krigsman, one of the federal prosecutors who tried Al-Arian.

So, the *Tennessean*'s articles might have provided an excellent opportunity for the *Tribune* to revisit and maybe rectify a terrible injustice it was complicit in inflicting in Tampa. I asked *Tribune* Managing Editor Richard "Duke" Maas if he had such an inclination. Aren't you interested, I inquired, in what the *Tennessean* wrote about a guy who had so much impact on Tampa and your newspaper? Well, not really, Maas responded, sounding more irritated than journalistically curious. He added that Fechter had left the newspaper, which I gather meant he felt the *Tribune* was, thereby, absolved of responsibility. **CP**

John F. Sugg was editor of the *Weekly Planet* in the 1990s, and group senior editor of Creative Loafing Newspapers until he retired in 2008. An earlier version of this article originally appeared in Tampa's *Creative Loafing*. Sugg can be reached at john.sugg@georgiaonlinenews.org.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Was he an FBI Informant?
The Framing of Ernest Withers

By Daniel Wolff

Which side are you on? This was the distinguishing question of the labor movement and the civil rights movement too. And I never doubted the answer of my friend and collaborator, the great African-American photographer Ernest Withers. Friends with Dr. Martin Luther King Jr., Medgar Evers, and other leaders, Withers covered the movement from Emmet Till's trial in 1955 through the Poor People's March in 1968, making images that have been called "supreme examples of photography being used to enact social change."

So, when a headline in the Memphis *Commercial Appeal* on September 12 of this year proclaimed Withers an "FBI mole" – and Marc Perrusquia's story was picked up nationally and internationally – I wanted to know the facts. Was he, as the *New York Times* said in its "Week in Review," "for many years … a paid informant", "a guy," as Dick Gregory told the *Washington Post*, "hired by the FBI to destroy us"? And was this, as the Memphis paper wrote, "a covert, previously unknown side of the beloved photographer?"

The answer to the last turns out to be a clear No: Withers had discussed his relationship with the FBI in a published interview he gave in 2000.

"…I always had FBI agents looking over my shoulder and wanting to question me. I never tried to learn any high-powered secrets. It would have just been trouble…. I was solicited to assist the FBI by Bill Lawrence who was the FBI agent here. He was a nice guy, but what he was doing was pampering me to catch whatever leaks I dropped, so I stayed out of meetings where real decisions were being made."

The implication here is that – as a well-known and connected Memphian who was friendly with local and national civil rights leaders – Withers was under constant pressure from the FBI. Reaction to the story indicates this was pretty common at the time. Journalist and professor Earl Caldwell told the *PBS News Hour* that the FBI "hounded" newsmen, "They were always asking everybody." One of the founders of the Student Nonviolent Coordinating Committee, Julian Bond, told the *Washington Post*, "Lots of people talked to the FBI and did so innocently." And that paper's columnist, William Raspberry, added, "Sometimes you have to throw them a little something to get them off your back."

So, what did Withers throw his inquisitors? The original story in the *Memphis Commercial Appeal* implied the worst: "Withers shadowed King the day before his murder, snapping photos and telling agents about a meeting the civil rights leader had with suspected black militants." The sinister insinuation here is that Withers' behavior may have somehow been connected to the shooting.

I went through the relevant FBI files as provided by the *Commercial Appeal*. I found no suggestion that Withers was dropping "any high-powered secrets" about Dr. King. For example, he apparently told the FBI that Dr. King was staying at the Lorraine Motel in Memphis. But that was where the leader – and just about every other prominent black out-of-towner – stayed when in town. And it had been reported in major newspapers. As to his "shadowing" his old friend, isn't that a photographer's job?

Julian Bond told the *Washington Post*, "Lots of people talked to the FBI and did so innocently."

Repetitious and often unclear as to sources, the files show Withers talking with the FBI not "for many years" but between 1968 and 1970. And the photographer focused not on Dr. King but on a small group of "suspected black militants" called the Invaders. To understand why, it helps to recall the political situation.

By 1968, the nonviolent movement was sputtering, dismissed by many as old-fashioned and ineffective. One of the reasons Dr. King agreed to go to Memphis was to drum up support for his upcoming Poor People's March on Washington. He was told the sanitary workers strike had produced "the broadest coalition ever in Memphis," including dozens of African-American ministers and community leaders, as well as representatives of the Invaders.

On March 18, 1968, Dr. King spoke to 15,000 people at the Mason Temple, urging them to adopt the strategy of a "general work stoppage" and promising to return to lead a protest march through the city's streets. When he came back ten days later, the march only lasted twenty-five minutes before it disintegrated into "wild looting." Two hundred eighty people were arrested, 60 hospitalized, and one killed. For Dr. King, it was a savage disappointment. "Maybe we just have to admit," he told his advisors afterward, "that the day of violence is here."

Trace what Withers leaked to the FBI, and it seems that the photographer, too, was concerned about the threat to the nonviolent movement.

Almost all the FBI reports that cite Withers are about the Invaders. He didn't think them capable of much action but was concerned that they were trying to "scare and blackmail the community." He worried that the group's violent rhetoric might continue to hurt Dr. King's reputation. And that, in turn, would help the FBI discredit the leader. Indeed, Taylor Branch's Pulitzer Prize winning biography of Dr. King notes that the trouble in Memphis was "a godsend to the FBI." The next day, J. Edgar Hoover's agency told "cooperative news sources" that Dr. King's brand of protest would only lead to "vandalism, looting and riot."

In fact, a Memphis police officer had infiltrated the Invaders a while before the march. And a Congressional investigation later looked into the question of whether the looting might have been provoked by the infiltrator. Withers appears to be the source who told the FBI that only 1 per cent of the marchers had looted, that the violence didn't seem organized, and that the Invaders had *not* played a leading role.

Feeling the need for the "rehabilitation" of his movement, Dr. King returned in early April to show that nonviolence could work in Memphis. Only a couple of thousand people were in the Mason temple on April 3 to hear his famous speech, announcing he'd been to the mountain and seen the promised land. The next

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CounterPunch
PO Box 228
Petrolia, CA 95558

Don't Forget! Phone 1-800-840-3683 to make your annual donation for the CounterPunch Fund drive!

1st Class
Presort
U.S. Postage
PAID
Permit No. 269
Skokie, IL

First Class

return service requested

day, he was killed.

Withers continued to provide information, mostly on the Invaders, until January 1970. Then, he apparently told the FBI, "The Invaders for all practical purposes is a dead organization… ." And his days of dropping leaks ended.

Was Withers on the agency's payroll? The original *Commercial Appeal* story states that "experts" believe he "fits the profile of a closely supervised, paid informant." Only one expert is cited, author Athan Theoharis. There's no evidence in the FBI files that Withers was either paid or supervised: no cashed checks, no orders to infiltrate this or that event. Yet, by the time the story makes the front page of the *New York Times*, this appears as fact: "He was a paid FBI informant."

In the over 7,000 pages of FBI reports the *Commercial Appeal* consulted, almost all the information attributed to Withers is from meetings open to the general public, or was already widely known. For example, where the *Commercial Appeal* declares that Withers provided the FBI with "a virtual directory of strike-support organizers," the document turns out to be a newsletter available to anyone who asked.

What these previously secret files do confirm is that the FBI, not Withers, was out to get Dr. King. One report characterizes the civil rights leader as "a confirmed Marxist." The agency is eager for all rumor and innuendo. And the white, mainstream media joined in the bashing: after the looting, the Memphis *Commercial Appeal* questioned the leader's courage in an editorial it entitled "Chicken a la King."

Four decades later, the *Commercial Appeal*'s front-page "exposure" of Ernest Withers has some of the same elements of character assassination. Its follow-up editorial declares that in April 1968, "… the FBI had an on-the-ground insider to keep them informed of King's activities. That informant, according to Federal sources, was Ernest Withers." Except the documents don't support that. The FBI had a real insider who traveled with Dr. King, sat in on important meetings, and knew about the movement's finances. That informant has repeatedly been identified as the comptroller of the Southern Christian Leadership Coalition. Withers didn't have that kind of access and, per his own statement, didn't want it.

Did Ernest Withers "drop leaks" to the FBI between 1968 and 1970? Yes. Were they "high-powered secrets" that undermined Dr. King's civil rights movement? No, not according to the FBI records released so far. Was the photographer paid and closely supervised? There's no evidence of that.

That said, the damage to Withers' legacy may already be done. To some, any contact with the FBI is unforgivable; it may even affect their judgment of his extraordinary photographs. But the facts prove more complicated than that, reflecting the tremendous pressures of the civil rights era. In the battle between J. Edger Hoover's FBI and Dr. King's movement – between those who tried to suppress our rights and those who fought for them – nothing in these files shakes my belief about which side Ernest Withers was on. **CP**

Daniel Wolff collaborated with Ernest Withers on *The Memphis Blues Again* (Viking Studio, 2001) and *Negro League Baseball* (Harry N. Abrams, 2004). He can be reached at ziwolff@optonline.net.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED